



NEEK

News of the Sitka Community Association
Special History Edition

FEB 27 1985

Christmas-tide in Sitka

January 7, 1898 Sitka, Alaska

Celebrations of Nativity in Sitka began with the American Christmas. On the eve of that day a Christmas party for the children was organized in the court room; the money for the event was raised by the town residents. This children's festivity was a kind of an examination for them. In the presence of their parents, they had to demonstrate their achievements in the study of their native language [Russian] and singing. Children of Indians were not forgotten either. On December 24 (new style) at 3 p.m., a Christmas party at the court room was attended by the students of the Russian Orthodox Indian school together with their teacher, psalm-reader Arkhangel'skii. The children were invited by the master of ceremonies of that event, Miss Johnson, the wife of Alaska's Chief Judge. About 3 p.m. I visited the Indian school where the children had gathered waiting to go to the Christmas party. There were about 20 boys and girls in the classroom. The boys were wearing short jackets and trousers, and the girls — light-colored dresses. Despite the winter season, some were wearing little straw hats. Only their dark-tanned faces reminded that they were Indian children . . . Some of them had books in their hands, which turned out to be Russian primers and prayer books in the Indian [Tlingit] language. I approached one of the boys and using signs . . . and him to read the primer. He opened the . . . ntly and correctly pronounced

several Russian phrases. Some of the children recited several prayers in Russian and Indian [Tlingit] from memory.

At 3 o'clock the children came to the court room. They had never seen anything like that in their own dirty houses. There the only entertainment they had were the dances and wild songs of their parents, telling them about their terrifying past.¹ Here, among the White people, they are surrounded with attention and love; they are entertained with games, songs, etc. Having received their Christmas presents, the children went home. The main celebration took place in the evening. By 7 o'clock children from all of the schools—public, Presbyterian mission, Russian parochial school for girls,

and the Russian orphanage—began to gather. The children sat in the front, the Whites—Americans and Russians—behind them.

The children's festivity began. One after another, each boy and girl came out and read their English poems. It seemed that each student and each school tried to excel the others. The children of our Russian orphanage delighted everybody with their skillful reading. Here the Americans could see how their own native language was studied in the Russian schools. Between the reading the children sang American songs. Our children sang American songs on their own, to the great delight of the audience. At the end of the program our children sang the Russian national anthem "God Save the Tsar!", accompanied on the piano by Mrs. Johnson, who had prepared the children for this party. Everybody liked our anthem because of its majestic harmony. In the end the children were given presents.

A special Christmas party was organized for the Indian children at the Russian orphanage, during the first day of the Russian Christmas (Nativity). At 8 p.m. the orphanage's classroom was filled with Indians and their children. A Christmas tree stood in the corner. The children sat in the front on benches, boys on the one side and girls on the other; a large group of adult Indians sat behind them.

"Our Christmas party," they kept say-



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¹In this and several other statements throughout the report the author, S. P-ov [Sergei Popov?], shows some prejudice against traditional Tlingit customs. It seems that he was not knowledgeable about them and firmly believed, along with most other Orthodox and Protestant missionaries, that "civilized life" and rejection of the "old ways" would necessarily improve the life of the Tlingit people. In spite of this bias, his account is a valuable source of information on the relationships between the Tlingit, the Russians, and the Americans in Sitka around the turn of the century. It also sheds new light on the educational activities of the Russian Church in Sitka.

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ing to each other; one could see on their faces how happy they were when their children came out to the center of the room to read "speeches" in Russian and their own language, and to sing about the Russian Tsar ("Yak'ei, tlel yak'ei, Anooshi aankaawu" ("Glory, glory to our Russian Tsar . . ."). The

other guests were invited by Fr. Arkhimandrite Anatolii to his residence. The guest hall was filled with visitors, including all of the officials (with the Governor among them) and other Americans who had attended the Christmas party. The guests were offered tea, chocolate and fruit. Here, in the hall they exchanged their opinions, inquired about the

Americans were amazed that the children could easily read in two languages, despite the fact that some of them had not spent even two years in the orphanage.

orphanage students sang several Russian songs and the Russian national anthem for them. Each Indian child received a present. At 9 p.m. the Indians and their children started to go home.

On the second day of the Russian Christmas (Nativity), another Christmas party took place at the Russian orphanage. The orphanage children learned several Russian and English poems and songs. The "Russian Christmas party" was attended by all of the Russian and American inhabitants of Sitka. All the government officials received invitation cards. The arrival of the guests began at 7 p.m. All of the officials were present: Alaska's Governor J. G. Brady and Mrs. Brady, U.S. Judge C. S. Johnson and Mrs. Johnson, U.S. Attorney Burton E. Bennet and Mrs. Bennet, and others. The corridors adjacent to the classroom were filled with people. The room was decorated with the Russian and American flags; portraits of His Majesty, Her Majesty, the President of the United States, and the Right Reverend Nikolai, Bishop of Alaska and the Aleutian Islands, were decorated with greens and flowers. The evening began with the students of the [Archbishop] Innocent school and the female students of the parish school singing the Russian anthem accompanied by the organ. After that the children took turns reading poems in Russian and English. Between the reading of poems, Russian and American songs were sung. The orderly behavior of the children as well as their reading and singing delighted the public which applauded after each performance. Americans were amazed that the children could easily read in two languages, despite the fact that some of them had not spent even two years in the orphanage. Governor J. G. Brady announced that he was amazed by the children's achievements and talents.

The evening ended with the singing of an American hymn "My Country" and a Russian one, "Our Lord is Glorified in Zion." All the children without exception received presents and went to bed. All of the officials and

life of the children, their education and upbringing, etc. At 10 p.m. all the guests left, after thanking the Russians for their hospitality and the party. The adult members of the Russian church—Russians and Indians—will also remember this past Christmas-tide in Sitka.

Brotherhood Organized

Among the Indians, there still exists a custom of celebrating their former heathen feasts with heathen rituals. During these rituals, all the participants change from European clothes into their old traditional ones—animal skins, feathers, with weapons and "scalps"[?]. Having gathered together, they dance, shake their weapons, sing wild songs about the bloody glorious events of the past, appeal to spirits, tear up blankets and give out pieces as payments for mutual injuries and insults, distribute gifts, etc. Following Arkhimandrite Anatolii's suggestion some of the Indians organized a society [St. Michael Brotherhood] for fighting against heathen rituals and superstitions. Contrary to Indian customs, members of the Society will their property to their own children and not to their relatives, during funerals they abstain from various [traditional] rites, etc. The membership of the Society as well as its treasury are growing. By the beginning of the current year there was \$70.20 in the treasury.

For the Russian Christmas (Nativity), the time when Indians engage in heathen celebrations, Brotherhood members decided to organize their own party and invited all the Indians, and even members of the Presbyterian mission, in order to set an example of how to spend time. The Brotherhood meeting took place in the evening in the parish school building. Brotherhood members themselves decorated the room with flags and greens. Portraits of the Right Reverend Nikolai, Bishop of Alaska and the Aleutian Islands and Metropolitan Innokentii were prominently displayed and decorated with greens. Tea, bread, and fruit, brought by the Brother-

hood members themselves, were placed on the tables. Guests arrived at 7 p.m., among them were chiefs [house and clan leaders], Presbyterians, and those who were not Brotherhood members, altogether about 200 people. The meeting was opened with the singing of the holiday hymns "Thy Nativity" ["Rozhdestvo Tvoe"] and "The Virgin Today" ["Deva Dnes"], performed by orphanage students together with the Indians. Then everybody sat down to eat. At first it was quiet but then each participant got up and delivered a speech. The first one to rise was a Presbyterian who spoke in his own language and said the following, "Everything here appeals to us—this peaceful meal, the decoration of the room, the order of things, and your society, but most of all we like the close relationship that you have with your pastor (priest). The White man despises us Indians, even in our mission he disdains us and would not sit at the same table with us; among you, however, the White man and the Indian are all equal in Christ—this touches and moves us."

Another Indian spoke about the darkness of ignorance, where he used to be and where those who did not attend this celebration still remained. "About two years ago I became ill," he began, "the illness was serious. I consulted a shaman [ixt'] who announced that a spirit

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News of the
Sitka Native Community
December 1984

This newsletter was prepared by the
Sitka Community Association,
Andrew Hope—Executive Director

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Tribal Council:
William Brady, President
Norman Williams, Vice-President
Lorena Baty, Secretary
Frank O. Williams, Jr., Treasurer
William Aragon
Nelson Frank
Al Perkins

The Sitka Community Association, a federally recognized Indian tribe, was chartered in October 1938.

The State of the St. Michael Brotherhood

by Hieromonk Antonii

For the year 1902

1902 (the year under review) was the best in the life of the St. Michael Indian Brotherhood; it was a year of true Christian charity and salutary success.

Prior to that the Brotherhood could not boast about either the number of its members or the order within its ranks. Ideas of harmony, Orthodoxy, and Christian unity would not take root in this institution of the Sitka parish. The cause of this was the inexperience of the leadership and the inaccuracy of the statutes, as well as the fact that the matters of formal protocol completely overshadowed the inner meaning and purpose of this useful church organization.

The past year was characterized by radical regeneration. In order to steer the Brotherhood in the proper direction, several members, who caused disorder in its midst by their excessive claims and demands, had to be sacrificed. However, this quantitative loss was immediately compensated; as soon as this harmful ballast had been removed from the

institution, the Brotherhood membership grew from a weak figure of twenty to a respectable one hundred and ten. In addition a new healthy spirit could be felt in this new body—a spirit of obedience to the Church and the pastoral leadership and of strong opposition to false belief.

The most gratifying developments could be mentioned in the following order. In the year under review, Brotherhood members led an exemplary life: there was not a single case of drinking, quarrels, litigations, and altercations. The title of a Brotherhood member gained full respect not only among their neighbors in the Sitka Village but in other communities as well. Brotherhood members attended church services willingly and in large numbers; they also tried not to miss the regular weekly services. During holidays, they were present in the church *in corpore* [in person] dressed in uniforms and holding lit candles. The charitable activities of the Brotherhood were so successful that there

was no need in the past year to take money out of the main treasury, since each sum needed for mutual aid was immediately covered by a collection.

Relations between members were characterized by peace, friendliness, affability, politeness—all of which made cooperation much easier. Five Brotherhood members were married in church, so as to demonstrate their departure from the primitive naturalized family¹ and strong solidarity with the persistent demands of the church concerning this subject. Other Brotherhood members decided to submit to these demands as well.

Many members of the Brotherhood announced their desire to learn to read the book of God's Law [the Bible] in their native language. Two of them have demonstrated a complete and rapid success, while others are also on the way to similar achievements in the domain of spiritual enlightenment. Thus this precious book reached their intelligent minds for the first time and immediately became their favorite. Successful education required an alphabet which is now being completed by this author, who has combined in this work the modern methodic system with the phonetic base developed by the departed Archbishop Innokentii, whose profound observation in this area are extremely useful.



E.W. Merrill, Alaska Historical Library

Bishop Philipp (center) with clergy and representatives of St. Gabriel's Brotherhood (crossed sashes) and St. Michael's Brotherhood (diagonal sashes). Those identified are, from left to right, 1) Scotty James; 2) Esther Littlefield's father (Kali. Ann?); 3) Jim Andrew; 4) Thomas Sanders; 5) James Howard; 6) Harold Bailey; 7) Thomas Demitrii; 8) Charlie Dick. Photo circa 1916.

In short, a new spirit and a yearning for spiritual freedom began to glimmer inside the Brotherhood, whereas in the past they were overwhelmed by quarrels, arguments and other examples of spiritual impoverishment.

During Christmas [Nativity] holidays Brotherhood members managed to organize an elaborate, wonderful party. The idea of this social innovation belongs entirely to a respected member of the Sitka parish, Brotherhood member Foma [Thomas] Kichkau Bennet as well as to Nikifor Kul'kita and their families. The party had been organized according to a special plan, which turned out to be quite successful. After candles had been lit on the holiday tree, Brotherhood members turned to the holy icons and in full harmony as well as with strength and religious inspiration sang a *tropar'* and a *kondak* [holiday hymns] in honor of Christ's Nativity. Following that a venerable elderly man delivered a rather eloquent speech. He spoke about a new era in the Indian existence. In accordance with the optimistic ideas of the speech, expensive gifts were distributed among the guests. Many visitors from the distant areas of central Alaska as well as about fifty non-Orthodox Indians were present. They were greatly impressed by the orderly conduct and generosity of the Orthodox Brotherhood members. The most solemn moment of this whole exchange of ideas, holiday wishes, and expressions of sincerity was an eloquent and convincing speech made by Mr. Kichkau-Bennet, one of the most high-born Indians. The speaker announced that he was forever abandoning the customs of pagan ignorance and thus decided to part with an ancient crest of his clan.² There are only three such regalia among the old as well as the more recent Sitka clans: two historical hats and a staff decorated with human hair and allegoric-heraldic images. This staff was presented to the priest of the Sitka parish. The donor spoke about its historical significance—a

combination of a symbol of aristocratic power and hereditary honor of the clan; he also politely asked not to pay special attention to the relative modesty of the gift as a material object but rather to appreciate its special national [tribal] significance . . .

The transfer of the above-mentioned artifact in front of such a large group of people had a special outstanding significance; it was also a clear indication of the sympathy and trust between the Church and the Indians. The party then continued in an atmosphere

of sincerity, mutual friendliness and spiritual unity. This privately initiated attempt to do something good for others is a very important and pleasant fact in the life of the Brotherhood. The fact that Brotherhood members maintained full neutrality in the dangerous local issue of raising and especially "pulling down statues" does them special credit³ . . . While Presbyterian Tlingit all joined a pagan feast that did not fit in with the strict Puritanical morality of their religion, the Orthodox Brotherhood members behaved very well; having rejected the appeal to join the ceremony, they peacefully conducted their family affairs, attended church and religious meetings, and could not be seduced by the loud noises made by the participants in the feast, or by the food and drink available there. This is another wonderful indication of the wisdom and prudence of the Brotherhood members who were able to resist the superstitions and violence of their tribal kin.

Another pleasant fact of equal importance should also be mentioned. Some time ago the Sitka Brotherhood resisted and destroyed all the attempts of the local branch of the Salvation Army (using this new cover to promote Presbyterian interests) to subvert them.⁴ Because of that the street prophets rushed to the most distant and backward Tlingit settlements. The most energetic forces of the Army

doxy. Although it was difficult for me to give an official permission, I gladly blessed the good Brotherhood member, supplied him with Orthodox instructional materials in the Tlingit and English languages, and sent him off for further instructions to the priest of the Killisnoo parish. This turned out to be a timely and very helpful measure. Semen Kakoish attracted eighty-three members to the Orthodox Brotherhood, stopped the people from being carried away from our Church by the street preachers, and was quite successful in making them listen to him. The voice of a tranquil, dedicated and wise man overcame the street shouting of the disguised Presbyterians. Local people trusted their brother and left his adversaries. Since then the false prophets of Killisnoo suffered a serious decline, a usual thing in these situations . . .

[*Russian Orthodox American Messenger*, vol. 7, no. 4, 1903, pp. 56-60.]



Killisnoo Russian Society, V. Soboleff, Alaska Historical Library

went to Killisnoo. Incidentally, our own young psalm-reader left his post there just before the Christmas-tide. The needs of the local church were tremendous. A preacher, a translator and a constant helper in those difficult times was greatly needed. The Sitka Brotherhood immediately realized the danger posed by this cunning redecorated enemy. Brotherhood member Semen Kakoish [Luke Semeon] asked my advice whether he should go there to talk to the people about not losing their heads and remaining loyal to Ortho-

¹The missionary perceived the Tlingit marriage customs as "living in sin." He shared this view with other Orthodox (and non-Orthodox) clergymen who tried hard to convince the Tlingit to marry in the church in accordance with the Christian religious practices. Several decades later the majority of the Sitka Tlingit, including some elderly couples, did sanctify their new and existing marriages by the Orthodox ritual.

²There exist some indications that the motivations behind Mr. Bennet's act were different from what the missionaries perceived. Thus, Archimandrite Anatolii in his book *Indians of Alaska* indicates that there was great controversy over the ownership and inheritance of this staff and that Mr. Bennet did not wish to have it passed on to a member of a different house. This does not deny the fact that he was well aware of the positive effect his act had on the Russian priest's view of the Tlingit and their "spiritual progress." It is difficult to imagine that such a high-ranking member of one of the leading Sitka clans would give up one of the most ancient and valuable regalia of his ancestors.

³This refers to a conflict between two Sitka clans over a crest which both of them claimed as their own.

⁴The Orthodox Church in Alaska perceived all Protestant missionaries as its adversaries and competitors, and did not make the distinction between Presbyterians and members of the Salvation Army (who, in fact, were also competing against each other to win Native members). In Sitka the main confrontation in the 1890s-1900s took place between the Orthodox and the Presbyterians.

Funeral Rites

by Archimandrite Anatolii Kamenskii

The funeral rites¹ as well as the feasts and celebrations in honor of the dead serve as an illustration of how clearly and vividly the Tlingit conceive of the soul's existence after death. Death of a family or clan member is deeply mourned by the relatives. When they notice the signs of an imminent demise of the sick person, they begin washing and dressing him in his best clothes, while he is still alive. Several expensive blankets are wrapped around him and a *nahen* [*naaxein*, Chilkat blanket] is placed on top. Laid out around the deathbed of the deceased are his weapons and armour, his clan heirlooms, such as hats, masks, *sheshukhi* [plural of *sheishoox*, rattle], staffs and so forth, as well as other clan regalia which the deceased used while being the head of a house or a whole clan. All those objects used by the deceased in daily life, in hunting and other subsistence activities, such as knives, a pipe, tobacco, etc., were often wrapped in blankets and placed with the corpse. All these things were supposed to be useful for the deceased in the other world.

The mournful mood of the relatives is expressed by a strict fast which all the women of the house, and especially the wife and daughters of the deceased, impose upon themselves. During the whole period, while the deceased lies in the house, they sit around his body without moving; here they also sleep at night and cry from time to time. In addition to these mourners, a few are also hired from the outside [of the matrilineal kin of the deceased]. The male relatives also express sorrow but in their own way. During this time they abstain from work. All of the various tasks involved in the funeral are performed by the wife's relatives, the people of the other blood and tribe [moiety].

While the corpse lies in the house, memorial feasts are held daily. During them, guests receive food and in addition such gifts as blankets and whole pieces of linen and of other fabrics. Guests always leave loaded with food of various kinds. The deceased lies

in the house for three days and sometimes longer. In the meantime, a pyre is prepared behind the house for the cremation of the corpse. A rectangular pyre made of dry spruce logs five to six feet long is filled with dry chips and brushwood, and then various greases are poured over it.

When everything is ready, the body of the deceased is carried outside, which is accompanied by some rituals. In ancient times, slaves were killed at that moment, and their bodies were later cremated with the corpse of their master; it was hoped that the latter would not remain without slaves in the other world. The corpse itself was taken out not through the door but through the smokehole. After the corpse, a live dog was also thrown from the fireplace into the opening. It is difficult to tell the meaning of these rites. Probably it is also the same as that of early human sacrifice, i.e., the ashes were thrown after the deceased so that he would not suffer from cold in the other world. The dog, without which the Indian cannot survive on earth for a single day, could also become useful in the otherworld.

While the procession with the corpse, accompanied by female mourners, with their hair loose and faces painted, was moving to-

wards the pyre, in the house, gifts were being distributed in memory of the deceased for the last time. The deceased was not laid but seated upon the pyre. Wrapped in blankets, with his face painted [with the symbols of his clan] and his head covered with a black kerchief or a fur hat used by shamans, he resembled a live person from a distance. Artifacts destined for cremation with the deceased were arranged around him. Family crests—if one could use this term to refer to tribal emblems or totems—were usually not burned but passed on to the heir.

While the four or five persons in charge of cremation arranged the corpse, a whole choir of funeral singers gathered around the pyre. As a drum began to sound, the singers struck up a mournful song, tapping their bone rattles and sticks in time with it. The pyre was lit from different sides. The female mourners performed their last task with their backs to the pyre. To make the corpse burn up faster the men in charge of cremation turned it from side to side with long poles, until together with the pyre it turned into ashes and coals. The remains were collected and sometimes buried in the ground or put in a box, which was then placed inside a small house-monument [grave house] called *kakhety* [*kaa daakeidi*]. This is how the pagan Indians buried their dead, whether rich or poor, with the exceptions of shamans.

Shamans' corpses were never cremated. The Tlingit are convinced that their bodies

do not decay, and therefore they are neither burned nor buried in the ground. When a shaman dies, his relatives dress him in his special costume and keep him inside the house for four days, carrying the body from one corner of the house to another every day. Why this is done nobody knows. On the fifth day the corpse wrapped in blankets and tied to a board is taken to a secluded
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Edward de Groff, Alaska Historical Library

¹The description presented here is a fairly accurate account of the traditional Tlingit funeral of the post-contact period (ca. 1880), when artifacts of European origin were already utilized in the ritual but no Christian ideas or practices had yet been incorporated. Archimandrite Anatolii spent three years in Sitka (1895-1898) as a missionary priest and the dean of clergy and gained considerable knowledge of Tlingit culture and social life of his own time as well as the previous decades. With the exception of some minor details, this description is corroborated by the accounts compiled by such scholars as Ivan Veniaminov (Bishop Innocent), Swanton, de Laguna, and others, as well as by the information obtained from knowledgeable Tlingit elders by the present translator in 1979-1980.

Early Church Conflicts

Sitka Petitions Washington, D.C.

The following two petitions appeared in the Russian Orthodox American Messenger and were printed in both English and Russian. The English version has been edited slightly to bring it closer to the Russian text, which might have been the original. The first document was signed by many of the Russian and Creole (Russian-Native) residents of Sitka, the second bears ten signatures of Sitka Tlingit leaders and elders.

On the basis of archival research, it has been concluded that the two petitions were inspired and possibly written by Russian priests, who at the time were engaged in a rather bitter confrontation with Sitka's Presbyterian missionaries and government authorities. This explains a certain bias in the documents. Nevertheless, the fact that many of the leading Tlingit members of the Orthodox Church were willing to sign the second petition suggests that it did express their demands and complaints fairly accurately. The documents also demonstrate that, while protecting its own interests in Alaska, the Russian Church did make an effort to defend its Tlingit parishioners and other Native people from mistreatment.

Sergei Kan—Translator

**A Petition
To His Excellency Mr. Kotzebue
Imperial Russian Ambassador
To Washington**

Your Excellency:

We all, the undersigned Orthodox residents of Sitka, both of Russian and Native descent, take the liberty of addressing you with an entreaty that you extend your protection to the Russian Orthodox Church in Alaska and defend it against oppression and violence of all kind, which it suffers at the hands of the Presbyterian missionaries and other persons, and not infrequently even at those of government officials belonging to the Presbyterian Church.

The Orthodox Natives, Indians, numbering no less than 482, are continually subjected to abuses of every kind. They cannot find protection in the courts and other official places dominated by Presbyterians.

There are rather frequent cases when government officials, members of the Presbyter-

used other insulting words as well. This case will probably be immediately reported to Your Excellency by His Eminence, the Right Reverend Nikolai, Bishop of Alaska and the Aleutian Islands.

Every year news of similar or even worse insults of Russian clergymen are received from remote corners of Alaska. In the near future Sitka is expecting a new Governor, a Presbyterian pastor J. G. Brady, while the position of the Marshal will be occupied by W. A. Kelly, the former superintendent of the Presbyterian Mission. This is expected to result in even greater persecutions of Orthodoxy.

In view of all this we take the liberty to petition Your Excellency:

1) To appeal to the Government in Washington and to report this condition of Orthodoxy in Alaska, asking it to impress upon its officials sent to Alaska the duty of paying the closest attention to the abuses committed by the Presbyterian Mission and to be impartial to Orthodoxy, in strict adherence to the treaty

made between Russia and the United States in the year 1867, and particularly not to allow themselves to persecute members of the Orthodox Church, in order to avoid possible unrest.

2) To appeal most humbly to His Imperial Majesty the Emperor Nikolai Aleksandrovich, Autocrat of All Russia, to appoint a Representative of the Russian Imperial Government, with a right to reside in Sitka, to whom the Russian subjects residing here as well as all their Orthodox inhabitants of

Alaska could appeal in cases of persecution of their faith and not infrequent cases of violation of other provisions of the above-mentioned treaty, besides the number 3. Whereto we affix our signatures: (Over 70 signatures follow, some in Russian and some in English.)

[*Russian Orthodox American Messenger*, vol. 1, no. 12, 1897, pp. 240-242]

A Petition To The President of the United States

Dear Sir:

From the very time when the United States raised its flag here and throughout the entire Territory, our people have not ceased to appeal directly to the Government in Washington through its representatives, the most prominent chiefs and leaders. We have done this, despite our knowledge of the presence of Government representatives here, such as the Governor and other officials. The reason for this is the following: our just and legal demands cannot find satisfaction here. We know that the Russian Government at the time of the transfer of Alaska to the United States did not sell us as slaves but had obtained certain rights and privileges for us, which were subsequently approved and legalized by the Congress.

Section 8 of the Organic Act, which provides the civil government for Alaska, says that neither the Indians nor other persons inhabiting this territory shall be distributed in the possession of any lands actually in their use, occupancy, or claimed by them. On the strength of this law, we always understood that every Indian has a right to dispose of his own life and property, whether personal possessions or real estate, such as lands, forests, lagoons, some small bays and rivers where we could procure food for ourselves and other necessities of existence.

We always thought that the civil government sent here by Washington should punish criminals, whether White or Native, so that if a White Man spills the blood of an Indian or, on the contrary, an Indian spills the blood of a White Man, justice would punish them equally. But in reality such equality never existed. It is true that the first four years of our life under the protection of the American Eagle remain in our memory as a period of pure peace, without any cloud of misunderstanding between a White Man and an Indian. It is also true that from the time of Governor Kinkead till that of Governor Swineford, when the scales of justice were in the hands of Mr. Haskett, we could still sometimes obtain satisfaction of our de-

The Orthodox Natives cannot find protection in the courts and other official places dominated by Presbyterians.

ian Church, violate the rights of the Orthodox people by personal interference. Such a case occurred on January 22, of the current year, 1897, when, with the personal participation of the Governor J. Sheakley and the Marshal W. Williams, violence was done to an Orthodox Indian *taion* (chief) Katliian. He was forced to bury his wife in two coffins, while the rector of the Orthodox church who protested the interference of government officials in this purely ecclesiastical matter, was called a "bad man" by the Governor, who

mands, but in the remaining time there was no justice at all. It does not exist right now either. It has perished.

In our mind's eye rise the images of our 28 friends and relatives who perished innocently at the hands of White people. Of course, we always complained to United States courts, but in all the courts we received only promises but never any satisfaction. Not a single White murderer, ending with the last one, named Mills, who had killed a Native Donald Austin, received an appropriate punishment and still enjoys total freedom.

Despite all this, we never lost faith in the Government in Washington, but were only forced to lose faith in the persons sent here by the Government.

From the Government we have always expected and are still expecting to receive satisfaction of our lawful demands. We believe that the promises made by the Vice President, who has recently visited Sitka, were not empty words. And at the present time, remembering the promises made by a member of the Government Commission, Geo. R. Tingle, to try once more to help us, we still hope that our petition will reach the desired end. Without mentioning our previous petitions made during the last few years, we appeal only about the issues listed here:

1) Not to allow Mr. Brady to pass through the middle of our village, along the narrow beach between the water and our houses where we keep our canoes and other things. In addition, to forbid him to destroy buildings and other property in the process of construction of the road. We do not lay claims on the land which he now owns, despite the fact that it had been the property of our ancestors since time immemorial and was used by them as a cemetery. It is enough that he illegally took possession of that land and used some of the bones to bank his road, while he threw others in the water. We do not wish to have these works to go on and do not wish to have other White people follow Mr. Brady's example.

2) We ask that Mr. Smith, the superintendent of the Baranoff Packing Company, was forbidden to take away our lagoons, bays and streams where we used to fish long before the arrival of White people. We wish that he would do the necessary fishing only with our consent. We demand that he stops throwing pieces of wood and tree trunks across the streams to prevent fish from going there to spawn. His fishing methods in the last eight years have made such places as Redoubt Bay, Cross Sound, Hoonah,

Whale Bay, Necker Bay, and Redfish Bay virtually empty.

3) We do not want American saloons. We ask the Government to close them down. Tramps and idle people, such as soldiers and sailors, bring whiskey into our midst from those establishments, they make our wives and daughters drunk and often seduce them in that state. We have brought such cases to the attention of local authorities, but always with the same result: the White Man re-

ished not by light fines but in some way that some real good would result. We do not see the necessity to populate saloons and dance halls in Sitka and Juneau with our educated daughters.

We could have gone on and on with this petition. We have uncovered the facts and ask the Government to pay at least some attention to us. We never received answers to our previous petitions, may be because of the fault of the mediator who had promised to

We always thought that the civil government sent here by Washington should punish criminals (so that) whether White or Native, justice would punish them equally. But in reality such equality never existed. (Justice) does not exist right now either. It has perished.

mained unpunished, while the Native was forced to pay fines, go to jail, and so forth. Saloons and other places of amusement are not needed for the wellbeing of our daughters. We do not want a civilization that not only does not close such establishments but even encourages them. We do not want education that which tears our daughters away from their homes and alienates them, teaching them the English language, which only makes it easier and more profitable for them to engage in prostitution. Drinking has brought adultery into our families, and adultery has torn apart our family bonds. We do not want to look at this terrible evil with indifference, but want to have such crimes pun-

deliver them. Consequently we now ask the Government to address the reply to Klian-tych, the head chief of the Sitka tribe.

We have the honor to sign this petition as
Your most humble servants.

John Khliantych	Oushkinakk
Tom Katzekoni	Nowaya
Sergei Anlizhe	Saha
Aleksandr Natzlen	Vattaa
Pavel Katliian	Quitka

[*Russian Orthodox American Messenger*, vol. 1, no. 12, 1897, pp. 242-246]



Sitka Indian Village, circa 1887

The Development of the Indian Court System

by Judge Jim Bowen

Materials Prepared for Conference
on Tribal Courts in Southeast Alaska
Sitka Community Association
September 25-27, 1984

Historically, the Indian judicial system has assumed three leading forms, each institution distinct from the others: traditional courts, Courts of Indian Offenses (called CFR*), and tribal courts. While there are only a handful of traditional and CFR courts remaining today, each of these judicial bodies assumed an important role in the historical development of the Indian judicial system.

Traditional Courts

One of the most important powers exercised by traditional tribal governments was the resolution of disputes among tribal members. The mechanism charged with performing this was not always a body of appointed

problem in such a manner that all could forgive and forget and continue to live and work within the tribal society in harmony.

Under the traditional tribal system of justice, the ultimate decision was seldom made by a judge. Rather, the job of the mediator or reconciling chief was to create an atmosphere for participant decision-making. The two conflicting parties would call upon a chief, elder, medicine man, or religious leader more for his assistance in keeping the situation within the bounds of tribal customs than for his decision as to who was "right" and who was "wrong" in a given situation. The role of this tribal figure was to help the parties discuss the problem until a satisfactory compromise or solution could be agreed upon. Each of the parties recognized that a proper settlement required some restitution to the injured party, but restitution that permitted the offending party to continue to live

In most instances the tribal system attempted to compensate the victim . . . in such a manner that all could forgive and forget and continue to live and work within the tribal system in harmony.

or elected judges as we use today; rather, it often fell within the authority of the tribal chief, the council of elders or chiefs, the council of the warrior society leaders, or the religious leaders. Whatever the mechanism used by the tribe, the adjudicatory function was somewhat different from that to which we are most accustomed. The primary goal was simply to mediate the case to everyone's satisfaction. It was not to ascertain guilt and then bestow punishment upon the offender. Under Anglo-American notions of criminal law, the objectives are to establish fault or guilt and then to punish. The sentencing goals of retribution, revenge, and deterrence and isolation of the offender are extremely important. Under the traditional Indian system the major objective was more to ensure restitution and compensation retribution. The idea, therefore, that tribal laws involved some Old Testament eye-for-an-eye type mechanism is pure Anglo fiction. In most instances the tribal system instead attempted to compensate the victim and/or his family, and to solve the

within the tribal community. Banishment was extremely rare in most tribes and represented a very serious breach of the fundamental folkways that bound the tribe together.

There were occasions when punishment had to be meted out. Many of you are familiar with the Tlingit custom of having the victim or his family carry out the punishment for a violation of tribal law. Whatever mechanism was adopted by the traditional forms of tribal government, religious custom and traditions were the prevailing characteristics that shaped Indian justice. A surprising number of times the mediating chief or elder, in order to ensure that everyone would abide by the decision that was reached, offered compensation himself to the injured party out of his own goods so that no one would continue to brood on his or her loss. Self-help was prevalent in many tribes and the specter of a continuing blood feud between powerful families, with its subsequent disruption of community life, was sufficiently distasteful to prevent family revenge from getting out of hand. Of the traditional courts that can be said to remain today, the Peacemaker's Court of the Iroquois and the religious courts

of the Pueblos are the most representative institutions.

Courts of Indian Offenses

During the early part of the nineteenth century when Indians were being pushed westward to the reservations, law and order in Indian Country was controlled by the military. At this time, the Bureau of Indian Affairs was a part of the Department of War. In 1849, with the creation of the Interior Department, the Bureau of Indian Affairs was transferred to this new department and Indian affairs were placed under civilian control. The military still continued to exercise some police functions on the isolated frontiers, but, in general, law and order was a responsibility of the Indian agents. Since many tribes had preserved law and order to themselves under their treaties, the duty of the Indian agent was to intervene in cases in which whites and Indians were involved and to ensure that the government made some effort to punish whites who had violated the treaties. The ordinary domestic law of the tribes generally continued until well into the allotment period. State and territorial courts, unless the conditions called for swift vengeance, usually deferred to the federal courts and often would not try cases involving two Indians even if they had appealed to the state courts for assistance. Only in New Mexico, where an early Supreme Court ruling (*U.S. v. Joseph*, 94 U.S. 614 (1876)) seemed to distinguish the Pueblos as ordinary citizens because of their residence in towns under the former Spanish and Mexican rule, did the territorial courts play an active role in deciding cases involving Indians.

Courts of Indian Offenses (called CFR courts), most probably began with the appeal by disputing chiefs to the agent as arbiter of problems that could not be resolved in the traditional tribal manner. On some reservations the early councils were both judicial and legislative and, after the influence of the chiefs had declined, exercised executive powers as well. CFR courts mark the first break away from one body (usually "Tribal Council") exercising all three powers on an exclusive basis.

The federal tribal lands allotment policy considerably increased the need for the CFR courts. In order to break up the traditional family groupings on many reservations (in the hopes of forcing rapid integration into Anglo society), allotments were deliberately mixed so that family members might have their lands scattered all over the reservations. The idea here was to encourage the younger generation to move away from the leaders and to begin farming on their own. The result of the application of the idea was that it be-

*Code of Federal Regulations in which the jurisdiction of federally imposed "CFR" Courts is defined.

came difficult if not impossible for communities that were dependent on tribal customs to conduct some of their ceremonies because the clan or family was so dispersed. The CFR courts then served to provide them with some forum in which a modicum of justice could be realized. Subsequent sale of allotments and the settling of white purchasers within the reservation borders made it virtually impossible to do anything except rely on these courts for redress.

In 1833 the CFR courts were made a regular part of the Bureau of Indian Affairs activities on the reservations. The status of these courts was never very clear since Congress frequently did not appropriate sufficient funds to make them effective, and they were described in *U.S. v. Clapox*, 35 Fed. 575 (1888), as "mere educational and disciplinary instrumentalities by which the Government of the United States is endeavoring to improve and elevate the condition of these dependent tribes to whom it sustains the relation of guardian."

From available literature concerning the nature of the CFR courts it is not clear whether they were really courts in the traditional jurisprudential sense of either the Indian or the Anglo-American culture or whether they were simply instruments of cultural oppression since some of the offenses tried in these courts had more to do with suppressing religious dances and certain kinds of ceremonials than with keeping law and order. The sacred Sioux ceremony of "keeping the soul", which was basically a condolence right, was banned by these courts on the Dakota reservations against the popular will of its people.

Although the CFR courts were staffed by Indian judges, they served at the pleasure of the Indian agent, not the community. The Indian agent appointed his judges as a patronage exercise, which rewarded the Indians who seemed to be assimilating while depriving the traditional people of the opportunity to participate in this vital function of the community. Even though the judges invested a good deal of energy and prestige in serving on these courts, too frequently the ultimate decision rested with the Indian agent, who often was perceived as acting as though the people had no right to understand the reasoning behind his decisions. Interestingly, there was never any real statutory authority for the establishment of the CFR courts and their legitimacy was rationalized under general powers that were lodged in the office of the Commissioner of Indian affairs. At its peak, the CFR court system was operating on about two-thirds of all reservations. With the authorization of the Indian Reorganization Act's corporate form of tribal government, all but a few tribes assumed judicial functions as a

manifestation of self-government, and rid themselves of this unpopular institution. Since these courts did not have the approval of the tribal community as a whole, even the most beneficial parts of their operations have been eyed with suspicion by both Indians and historians alike.

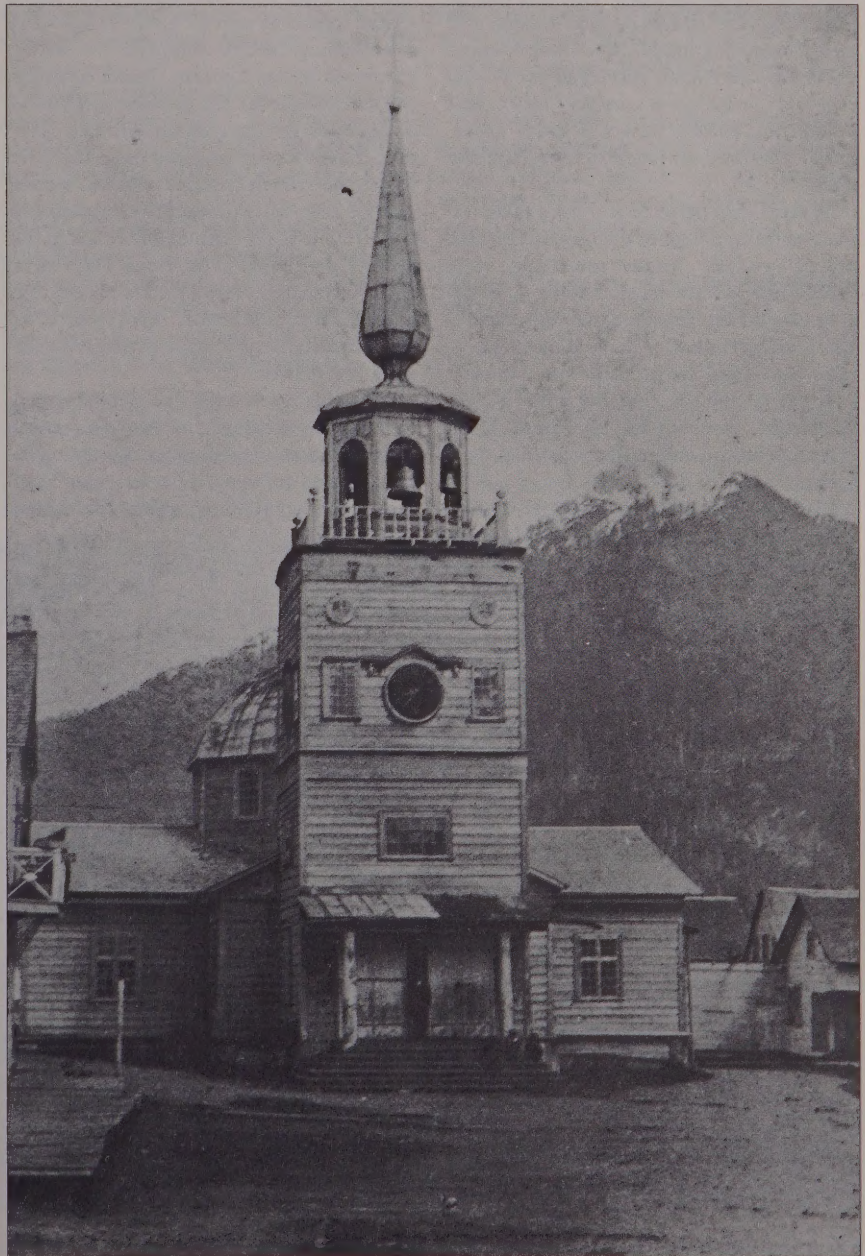
Modern Tribal Courts

The Indian Reorganization Act of 1934 heralded the beginning of the modern tribal court system. Under the IRA, not only could tribes draft a constitution and by-laws for self-government, but they could also establish their own judicial system. This opportunity

afforded a chance to abandon the already disintegrating CFR court system and replace it with a legal system more responsive to tribal needs and under tribal control. An opportunity was now provided to incorporate customary law into a new legal framework.

The years of assimilation that the federal government had thrust upon Indian Country, however, had taken their toll. Most tribes were not in a position to resurrect the traditional forms of justice that had functioned prior to the CFR era. Instead, tribal governments established legal systems closely fashioned after a model urged on them by the BIA. A few tribes simply retained their old

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St. Michaels Church, circa 1887. Edward de Groff, Alaska Historical Library

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CFR court system, slightly modifying it to eliminate some objectionable features that had revealed it as more or less a foreign institution. Written law and order codes were instituted and enforced, and for many tribes, unwritten customary law played much less of a role.

The newly created tribal court system, then, was designed to operate under and enforce the new tribal codes, which were based on BIA offered notions of Anglo justice more than reflecting traditional tribal norms. Their jurisdiction over civil disputes among tribal members was frequently exclusive, and the courts exercised broad criminal jurisdiction over reservation offenses. The assertion of jurisdiction by the federal government, and the subsequent grant of jurisdiction to states under P.L. 280 did not oust tribes of civil and criminal jurisdiction; rather concurrent jurisdiction existed then and today as between tribes and the federal government and states.

Modern-day tribal courts have taken on more of the trappings of the Anglo-American judicial system. Judges sometimes wear robes, witnesses are called to testify, attempts are made to keep testimony relevant, the litigants are permitted to have judicial advocates, and tribal court decisions are subject to appeal within the tribe. But with all these similarities, there are still significant differences that bring a unique flavor to tribal court systems.

For example, unlike their Anglo counter

parts, tribal judges are not usually attorneys. What legal training they receive comes through seminars and training sessions sponsored largely by Indian organizations. In some tribal court proceedings, lawyers are not permitted to participate; rather, the parties are represented by Indian advocates who are frequently assisted by tribal attorneys. The judge often controls the flow of a trial by asking questions of witnesses and even assisting the parties with the presentation of their positions. The atmosphere of the trial courtroom is markedly informal and relaxed as compared to that of the Anglo-American system.

Tribal courts are generally courts of record, and although now appearing more often, written opinions are not handed down as a rule. Because the U.S. Constitution is not applicable in Indian Country, *Talton v. Mayes*, 163 U.S. 376 (1896), the provisions of the Bill of Rights do not apply in tribal courts. However, in 1968 Congress passed the Indian Civil Rights Act which requires tribes to respect many, but not all of these rights. Importantly, it is left to tribes to define rights such as due process and equal protection. The federal courts become involved in this regard only in a habeas corpus action. Appeals from tribal court decisions remain within the tribal appellate system.

Given the marked differences between tribal court proceedings and Anglo-American courts, a question might arise concerning the breadth and influence of tribal court decisions. Are they fully recognized throughout

the overall American legal system? Since the development of the tribal court system has been sanctioned, indeed encouraged by Congress, there is little room for argument concerning the legitimacy of tribal court orders. However, since Indian nations do not fall within the definition of a state but are viewed as "domestic dependent nations", the tribal court decrees are not automatically entitled to the "Full Faith and Credit" recognition that the orders of state courts are accorded under the U.S. Constitution.

The Full Faith and Credit issue arose in an interesting Oregon state case of 1975, *Red Fox v. Red Fox*, 23 Ore. App. 393, 542 P.2d 918 (1975). While noting that the full faith and credit clause of the Constitution did not apply to Indian nations, the Oregon appellate court did reason that tribal court decrees were entitled to the same deference shown the decrees of foreign nations as a matter of comity. Comity is a legal doctrine under which deference is extended to foreign court orders as a matter of courtesy, but not of legal right or obligation. The critical question in granting comity is whether the parties had a fair and impartial trial within the tribal court system. If the court had jurisdiction, the parties had an opportunity to present their sides of the question, the proceedings reflected civilized jurisprudence, and a record was kept, then there is satisfactory evidence that there had been a fair trial.

The greatest challenge faced by modern tribal courts is in the harmonizing of Indian

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This is the first known photograph of St. Michael's Brotherhood. It was taken near the turn of the century, prior to 1903, the year in which St. Gabriel's Brotherhood was established.

E.W. Merrill, Alaska Historical Library

Christmas-tide . . .

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[yeik] was inside of me and that he would exorcise it. He demanded a payment and I brought him several blankets. The curing took a long time and lots of goods were given to the shaman, but my sickness only got worse. My relatives advised me to give more to the shaman. I was completely ruined.

One day I decided to go to the [Russian] priest [batiushka]; he treated other Indians, so I thought that he might help me as well. He gave me a jar of medicine. I drank some but began to have some doubts again, thinking that it was useless, since the shaman himself could not help me. Again I brought him a blanket. Again he failed to help me. I began to get ready to die. In the evening I decided to drink the priest's medicine, thinking that it would not hurt me anyway. So I pulled myself together and drank it. I did feel better and soon recovered. I was an ignorant man then, and how many of such ignorant people do we still have in the village?" He then continued, "All were invited to come here, but many preferred to participate in their dances and festivities and refused to believe that being here is better . . . I pray to God that their eyes would be opened as mine have been." Later on Indians also spoke about their former and present life and other sub-

jects. Their speeches were both expressive and reasonable. Their discussion ended late, about 11 o'clock, when they began to leave.

A similar meeting was organized by the St. Nicholas [Russian] Brotherhood on the New Year's Day. To greet the New Year in prayer and with one's family is not a custom of the Russian people of Sitka. The open saloons are a great temptation for the Orthodox population of Alaska. In order to keep the Russians away from that temptation, Fr. Arkhimandrite Anatolii suggested during one of the Brotherhood meetings that the members would spend the New Year's Eve at a quiet meal. The members of the Brotherhood agreed. The meeting also took place in the parish school building. The members themselves brought tea, bread, and fruit, and invited all the Russians. Altogether about 40 people came.

The meeting began with the singing of the prayer "Heavenly King" ["Tsariu Nebesnyi"] and the hymn in honor of St. Nicholas, the heavenly patron of the Brotherhood. Then all the participants sat down. During the meal the President of the Brotherhood, teacher V. Burov, got up and delivered a speech. In his address to the Brotherhood members, he pointed out that their meal reminded him of an evening of brotherly love among the first Christians. He ended the speech by say-

ing "Lately there has been no closeness among brotherhood members; they are losing interest in the organization, which is the result of mistrust among members and the lack of their acquaintance with each other. The present meeting is bringing us closer together." Later on the following persons spoke: Fr. Arkhimandrite Anatolii, Brotherhood secretary Arkhangel'skii, *starosta* [warden] of the St. Michael Cathedral Sergei Kostromitinov and many other Brotherhood members. Each speech was filled with sincere wishes to have more friendship among Brotherhood members and to work together for the common good. During the meeting the orphanage children sang the Russian anthem and "Many Years" ["Mnogoe Leta"] to the honorable patron of the Brotherhood, The Right Reverend Nikolai, Bishop of Alaska and the Aleutian Islands. The meeting ended at 11 o'clock.

Christmas-tide is over. Because their celebration was characterized by social rapprochement and reasonable pastime, the holidays will probably be remembered by the entire population of Sitka for a long time.

[*Russian Orthodox American Messenger*, 1897-98, vol. 2, no. 11, pp. 345-8]

Funeral Rites . . .

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island where nobody can disturb it, and left in a grave house, which is sometimes raised on small posts. The box with the shaman's charms is left here as well. The shaman's corpse is usually placed in a sitting posture. In the vicinity of Sitka, there were quite a few such coffins with corpses of shamans. The Indians themselves are afraid to approach them. Even if they have to pass by an island where such grave houses are located, they make offerings in memory of the shaman lying there. They throw a few pinches of tobacco or grease into the sea, or, having come very close to the island, leave some food on the shore. They believe that the spirit of the shaman likes that.

However, idle American tourists gladly steal these corpses to place them in museums. Not too long ago three shamans' graves used to be pointed out near Sitka. Incidentally, one of them was located in a cave or rather in a cleft of a cliff. Here the corpse of a gigantic shaman resting against the wall in a sitting posture remained untouched for several decades. But recently it disappeared. Many shamans, however, were buried in the ground by the Indians themselves who began to notice traces of the unwanted visitors. The latter always carried off something as a souvenir; sometimes a tuft of a shaman's hair, some-

times a nosepin, an earring, and so forth.

The Indians are greatly surprised that the White people treat the remains of the dead so disrespectfully; but what amazes them even more is the fact that the Whites get away with such sacrilegious acts. The Indians themselves firmly believe that every grave house of a shaman is inhabited by one of his *yeigi* [spirits] who guards the peace of the deceased. The shaman, of course, has to be a real one, who observes rules of abstinence. Even the wildest nature stands in awe of him. For example, when ancient trees shading the remains of a shaman grow old and are no longer able to stand up, they never allow themselves to fall upon his grave house but fall elsewhere, not far from it. Similarly, when the posts supporting the *kaa daakeidi* become rotten, they do not collapse one at a time but all together, so as not to disturb the position of the shaman's corpse.

Half a year or so after the funeral of an ordinary Indian or a shaman their relatives organize big festivities in memory of the deceased. However, these festivities do not differ much from ordinary feasts given by the Tlingit on various occasions.

From a series of essays entitled *Ancient Religion of the Tlingit*. *Russian Orthodox American Messenger*, 1902, vol. 6, no. 7, pp. 148-150.

Indian Courts . . .

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customs and traditions with the requirements of proper judicial procedure. Tribes are reluctant to abandon their past traditions by placing too much reliance on legal procedures and practices inherited from England. At the same time, as the caseload of tribal courts reflects increasingly complex litigation, tribal judges must master sophisticated concepts of judicial decision-making. While borrowing some Anglo-American notions about the system of justice, tribal courts are struggling to preserve much of the wisdom of their past experiences. Many tribal judges continue to operate as the head of a family might in solving problems. The desired resolution of an intratribal dispute is one that benefits the whole Indian community and not one narrowly designed to chastise an individual offender.

Layout and Photo Selection by Peter Metcalfe
Translations by Sergei Kan
Typesetting by The Type House, Juneau, AK

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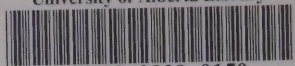
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